UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
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| **UNITED STATES OF AMERICA,** Plaintiff, v. **Carlos LEON-Tovar,** Defendant | Magistrate Docket No. '07 MJ 2726 |
| | COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States |

The undersigned complainant, being duly sworn, states:

On or about **November 20, 2007** within the Southern District of California, defendant, **Carlos LEON-Tovar,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **21st** **DAY** OF **NOVEMBER, 2007**

Jan M. Adler
UNITED STATES MAGISTRATE JUDGE

**CONTINUATION OF COMPLAINT:**
**Carlos LEON-Tovar**

## PROBABLE CAUSE STATEMENT

On November 20, 2007 Border Patrol Agents N. Mondragon and A. Gonzalez were manning the Border Patrol checkpoint on Old Hwy 395 near Rainbow, California. The checkpoint was fully operational with all signs and cones in place and in full view of the motoring public.

At approximately 11:45 A.M. the agents observed a white Chevrolet Tahoe stop short, south of the checkpoint. They then observed the Tahoe make a U-turn and immediately head south away from the checkpoint. In Agent Gonzalez' experience this action is typical of people trying to avoid apprehension by the Border Patrol. The agents then followed the vehicle in order to conduct a vehicle stop and perform an immigration inspection on the occupants of the vehicle.

The vehicle traveled to North Mission Road were it turned left and stopped. Agent Gonzalez observed the driver, later identified as the defendant **Carlos LEON-Tovar**, look back several times to make sure that the Border Patrol were no longer following him. The agents followed him eastbound to the Rainbow Color Nursery, where the defendant made a left turn and entered onto the property. The agents followed the defendant into the nursery where he proceeded north to a locked gate and stopped. The agents exited their vehicle and began to approach the defendant's Tahoe. When the defendant realized that the agents were approaching him he put the vehicle in reverse, bailed out of the car and fled on foot. The Tahoe traveled in reverse approximately 30 feet before striking the Border Patrol vehicle. The Tahoe narrowly missed Agent Gonzalez who had to jump out of its path and warned Agent Mondragon to do the same. Agent Mondragon gave chase and apprehended the defendant approximately 300 yards away. The defendant admitted to being a Mexican citizen illegally present in the United States. The time was 11:55 A.M. After the scene was secured the defendant was transported to Murrietta Border Patrol Station for processing.

Routine record checks of the defendant revealed an immigration history. The defendant's record was determined by a comparison of his immigration record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **August 22, 2005** through **San Ysidro, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his rights as per the Miranda Warning. The defendant understood his rights. The defendant admits that he attempted to flee when he saw the Border Patrol checkpoint and that he attempted to hide in the nursery in order to avoid apprehension by the Border Patrol. The defendant admits that he was previously deported to Mexico and was not allowed to re-enter the United States for a period of twenty years.